

**BEFORE THE
PHYSICIAN ASSISTANT BOARD
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation)
Against:)**

Kaitlyn Phuong Nguyen, P.A.)

Case No. 950-2016-000961

**Physician Assistant)
Certificate No. PA 21641)**

**Respondent)
_____)**

DECISION

The attached Stipulated Surrender of License and Disciplinary Order is hereby adopted as the Decision and Order of Physician Assistant Board, Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on February 21, 2019.

IT IS SO ORDERED February 14, 2019.

PHYSICIAN ASSISTANT BOARD

By:


**Maureen L. Forsyth
Executive Officer**

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Attorney General of California
2 ALEXANDRA M. ALVAREZ
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9
10 **BEFORE THE**
11 **PHYSICIAN ASSISTANT BOARD**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

Case No. 950-2016-000961

15 **KAITLYN PHUONG NGUYEN, P.A.**

16 Federal Prison Camp
37930 N. 45th Avenue
17 Phoenix, AZ 85086

**STIPULATED SURRENDER OF
LICENSE AND DISCIPLINARY ORDER**

18 **Physician Assistant License No. 21641**

19
20 Respondent.
21

22 **PARTIES**

23 1. Maureen L. Forsyth (Complainant) is the Executive Officer of the Physician Assistant
24 Board (Board). She brought this action solely in her official capacity and is represented in this
25 matter by Xavier Becerra, Attorney General of the State of California, by Keith C. Shaw, Deputy
26 Attorney General.

27 2. Kaitlyn Phuong Nguyen, P.A., (Respondent) is representing herself in this proceeding
28 and has chosen not to exercise her right to be represented by counsel.

1 3. On or about June 10, 2011, the Board issued Physician Assistant License No. 21641
2 to Respondent Kaitlyn Phuong Nguyen, P.A. The Physician Assistant License was in full force
3 and effect at all times relevant to the charges brought in Accusation No. 950-2016-000961 and
4 will expire on March 31, 2019, unless renewed.

5 **JURISDICTION**

6 4. Accusation No. 950-2016-000961 was filed before the Board, and is currently
7 pending against Respondent. The Accusation and all other statutorily required documents were
8 properly served on Respondent on or about October 17, 2018. Respondent filed her Notice of
9 Defense in response to the Accusation. A copy of Accusation No. 950-2016-000961 is attached
10 as Exhibit A and incorporated by reference.

11 **ADVISEMENT AND WAIVERS**

12 5. Respondent has carefully read, and understands the charges and allegations in
13 Accusation No. 950-2016-000961. Respondent also has carefully read, and understands the
14 effects of this Stipulated Surrender of License and Disciplinary Order.

15 6. Respondent is fully aware of her legal rights in this matter, including the right to a
16 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
17 her own expense; the right to confront and cross-examine the witnesses against her; the right to
18 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to
19 compel the attendance of witnesses and the production of documents; the right to reconsideration
20 and court review of an adverse decision; and all other rights accorded by the California
21 Administrative Procedure Act and other applicable laws.

22 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
23 every right set forth above.

24 **CULPABILITY**

25 8. Respondent understands that the charges and allegations in Accusation No. 950-2016-
26 000961, if proven at a hearing, constitute cause for imposing discipline upon her Physician
27 Assistant License.
28

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a prima facie case with respect to the charges and allegations contained in the Accusation and that those charges constitute cause for discipline. Respondent hereby gives up her right to contest that cause for discipline exists based on those charges.

10. Respondent understands that by signing this stipulation she enables the Board to issue an order accepting the surrender of her Physician Assistant License without further process.

RESERVATION

11. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Physician Assistant Board or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

11. Business and Professions Code section 2224, subdivision (b), provides, in pertinent part, that the Board “shall delegate to its executive director the authority to adopt a . . . stipulation for surrender of a license.”

12. This Stipulated Surrender of License and Disciplinary Order shall be subject to approval of the Executive Director on behalf of the Board. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be submitted to the Executive Director for her consideration in the above-entitled matter and, further, that the Executive Director shall have a reasonable period of time in which to consider and act on this Stipulated Surrender of License and Disciplinary Order after receiving it. By signing this stipulation, respondent fully understands and agrees that she may not withdraw her agreement or seek to rescind this stipulation prior to the time the Executive Director, on behalf of the Board, considers and acts upon it.

13. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Executive Director on behalf of the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and

1 adopt this Stipulated Surrender of License, the Executive Director and/or the Board may receive
2 oral and written communications from its staff and/or the Attorney General's Office.
3 Communications pursuant to this paragraph shall not disqualify the Executive Director, the Board,
4 any member thereof, and/or any other person from future participation in this or any other matter
5 affecting or involving respondent. In the event that the Executive Director on behalf of the Board
6 does not, in her discretion, approve and adopt this Stipulated Surrender of License, with the
7 exception of this paragraph, it shall not become effective, shall be of no evidentiary value
8 whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party
9 hereto. Respondent further agrees that should this Stipulated Surrender of License be rejected for
10 any reason by the Executive Director on behalf of the Board, respondent will assert no claim that
11 the Executive Director, the Board, or any member thereof, was prejudiced by its/his/her review,
12 discussion and/or consideration of this Stipulated Surrender of License or of any matter or matters
13 related hereto.

14 14. The parties understand and agree that Portable Document Format (PDF) and
15 facsimile copies of this Stipulated Surrender of License and Disciplinary Order, including
16 Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and
17 effect as the originals.

18 15. In consideration of the foregoing admissions and stipulations, the parties agree that
19 the Board may, without further notice or formal proceeding, issue and enter the following Order:

20 **ORDER**

21 IT IS HEREBY ORDERED that Physician Assistant License No. 21641, issued to
22 Respondent Kaitlyn Phuong Nguyen, P.A., is surrendered and accepted by the Board.

23 1. The surrender of Respondent's Physician Assistant License and the acceptance of the
24 surrendered license by the Board shall constitute the imposition of discipline against Respondent.
25 This stipulation constitutes a record of the discipline and shall become a part of Respondent's
26 license history with the Board.

27 2. Respondent shall lose all rights and privileges as a Physician Assistant in California
28 as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board her pocket license and, if one was issued, her wall certificate on or before the effective date of the Decision and Order.

If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 950-2016-000961 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

4. Respondent may not petition for reinstatement of a revoked or surrendered license/registration for three (3) years from the effective date of this Decision. If the Board grants future reinstatement, Respondent agrees to reimburse the Board for its costs of investigation and enforcement of this matter in the amount of \$2,372.50, payable to the Board upon the effective date of such reinstatement Decision.

5. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 950-2016-000961 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Disciplinary Order. I understand the stipulation and the effect it will have on my Physician Assistant License. I enter into this Stipulated Surrender of License and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Physician Assistant Board.

DATED:

1/25/19

KAITLYN PHUONG NGUYEN, P.A.
Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Disciplinary Order is hereby respectfully submitted for consideration by the Physician Assistant Board of the Department of Consumer Affairs.

Dated: February 5, 2019

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General



KEITH C. SHAW
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 950-2016-000961

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14 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Oct 17 20 18
BY Shirley P. Smith ANALYST

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BEFORE THE
PHYSICIAN ASSISTANT BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 950-2016-000961

KAITLYN PHUONG NGUYEN, P.A.

617 Lewis Road
San Jose, CA 95111

ACCUSATION

Physician Assistant License No. 21641

Respondent.

Complainant alleges:

PARTIES

1. Maureen L. Forsyth (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Physician Assistant Board, Department of Consumer Affairs.
2. On or about June 10, 2011, the Physician Assistant Board issued Physician Assistant License No. 21641 to Kaitlyn Phuong Nguyen, P.A. (Respondent). The Physician Assistant

1 License was in full force and effect at all times relevant to the charges brought herein and will
2 expire on March 31, 2019, unless renewed.

3 JURISDICTION

4 3. This Accusation is brought before the Physician Assistant Board (Board), Department
5 of Consumer Affairs, under the authority of the following laws. All section references are to the
6 Business and Professions Code (Code) unless otherwise indicated.

7 4. Section 3527 of the Code provides that the Board may order the denial of an
8 application for, or the issuance subject to terms and conditions of, or the suspension or revocation
9 of, or the imposition of probationary conditions upon a physician assistant license for
10 unprofessional conduct.

11 5. Section 3531 of the Code states:

12 "A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a
13 charge of a felony or of any offense which is substantially related to the qualifications, functions,
14 or duties of the business or profession to which the license was issued is deemed to be a
15 conviction within the meaning of this chapter. The board may order the license suspended or
16 revoked, or shall decline to issue a license when the time for appeal has elapsed, or the judgment
17 of conviction has been affirmed on appeal or when an order granting probation is made
18 suspending the imposition of sentence, irrespective of a subsequent order under the provisions of
19 Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter
20 a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information
21 or indictment."

22 6. Section 2234 of the Code states in part:

23 "The board shall take action against any licensee who is charged with unprofessional
24 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
25 limited to, the following:

26 "(e) The commission of any act involving dishonesty or corruption which is substantially
27 related to the qualifications, functions, or duties of a physician and surgeon."
28

7. Section 2236 of the Code states:

“(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

“(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section and Section 2236.1. The record of conviction shall be conclusive evidence of the fact that the conviction occurred.”

8. Section 2237 of the Code states in part:

“(a) The conviction of a charge of violating any federal statutes or regulations or any statute or regulation of this state, regulating dangerous drugs or controlled substances, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section.”

9. California Code of Regulations, title 16, section 1360, states:

"For the purposes of denial, suspension or revocation of a license, certificate or permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license, certificate or permit under the Medical Practice Act if to a substantial degree it evidences present or potential unfitness of a person holding a license, certificate or permit to perform the functions authorized by the license, certificate or permit in a manner consistent with the public health, safety or welfare. Such crimes or acts shall include but not be limited to the following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision of the Medical Practice Act."

COST RECOVERY

10. Section 125.3 of the Code states, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct: Criminal Conviction)**

5 11. Respondent is subject to disciplinary action under sections 2236 and 3531 of the
6 Code, and California Code of Regulations, title 16, section 1360 based on the following
7 circumstances.

8 12. Respondent was found guilty by a federal jury on September 18, 2017, in the
9 United States District Court, Central Division of California, of one felony count of Conspiracy to
10 Distribute Controlled Substances pursuant to 21 U.S.C. § 846, and nine felony counts of
11 Distribution of a Controlled Substance pursuant to 21 U.S.C. § 841, and sentenced to
12 imprisonment for a term of forty-one (41) months, based on the following allegations:

- 13 a. In approximately 2012, Respondent conspired with a physician (V.S.) and
14 another physician assistant (T.P.) to illegally prescribe controlled substances
15 on numerous occasions without a medical purpose in exchange for cash and
16 insurance payments.
- 17 b. Respondent, while acting outside the usual course of practice and without a
18 legitimate medical purpose, would meet with patients and provide them with
19 prescriptions for oxycodone,¹ methadone,² and alprazolam,³ among other
20 drugs, which had been pre-signed by V.S.

21 13. Respondent's September 18, 2017, criminal convictions for Conspiracy to Distribute
22 Controlled Substances and Distribution of a Controlled Substance are substantially related to the
23 qualifications, functions and duties of a physician assistant in that her convictions are directly
24 associated with her practice as a physician assistant and demonstrate unprofessional conduct,
25 conviction of a crime. As such, her convictions and conduct constitute cause for discipline

26 ¹ Oxycodone is a Schedule II narcotic used to treat moderate to severe pain and has a high
27 risk for addiction and dependence.

28 ² Methadone is a Schedule II narcotic pain reliever with multiple actions quantitatively
similar to those of morphine, and can also be used to treat narcotic drug addiction.

³ Alprazolam is a Schedule IV sedative used in the treatment anxiety and panic disorder.

1 pursuant to Code sections 2236 and 3531, and California Code of Regulations, title 16, section
2 1360 (criminal conviction).

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct: Criminal Conviction Involving Controlled Substances)**

5 14. Respondent is subject to disciplinary action under section 2237 of the Code based on
6 the following circumstances.

7 15. Paragraphs 11 through 13, above, are hereby realleged and incorporated by this
8 reference as if fully set forth herein.

9 16. Respondent's September 18, 2017, criminal convictions for crimes regulating
10 dangerous drugs or controlled substances constitute unprofessional conduct pursuant to section
11 2237.

12 **THIRD CAUSE FOR DISCIPLINE**

13 **(Unprofessional Conduct: Dishonest/Corrupt Acts)**

14 17. Respondent is subject to disciplinary action under sections 2234 and 2234,
15 subdivision (e), of the Code, based on the following circumstances.

16 18. Paragraphs 11 through 16, above, are hereby realleged and incorporated by this
17 reference as if fully set forth herein.

18 19. Respondent's September 18, 2017, criminal convictions for Conspiracy to Distribute
19 Controlled Substances and Distribution of a Controlled Substance are substantially related to the
20 qualifications, functions and duties of a physician assistant in that her convictions are directly
21 associated with her practice as a physician assistant and demonstrate unprofessional conduct,
22 dishonest or corrupts acts. As such, her convictions and conduct constitute cause for discipline
23 pursuant to section 2234, and 2234, subdivision (e), of the Code.

24 **PRAYER**

25 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
26 and that following the hearing, the Physician Assistant Board issue a decision:


27 1. Revoking or suspending Physician Assistant License No. 21641, issued to Kaitlyn
28 Phuong Nguyen, P.A.;

1 2. Ordering Kaitlyn Phuong Nguyen, P.A., to pay the Physician Assistant Board the
2 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
3 Professions Code section 125.3;

4 3. Ordering Kaitlyn Phuong Nguyen, P.A., if placed on probation, to pay the Board the
5 costs of probation monitoring; and

6 4. Taking such other and further action as deemed necessary and proper.

7
8
9 DATED: October 17, 2018



MAUREEN L. FORSYTH
Executive Officer
Physician Assistant Board
Department of Consumer Affairs
State of California
Complainant

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